

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Sprint Communications Company)	IC Nos. 03-I0048333S
)	04-S86610
Complaints Regarding)	04-I0107399S
Unauthorized Change of)	04-I0129292S
Subscriber's Telecommunications Carrier)	

ORDER ON RECONSIDERATION

Adopted: October 18, 2006

Released: October 19, 2006

By the Chief, Consumer & Governmental Affairs Bureau:

1. In this Order, we deny a Petition for Reconsideration filed by Sprint Communications Co., L.P. (Sprint)¹ asking us to reverse a finding that Sprint changed Complainants' telecommunications service providers in violation of the Commission's rules by failing to obtain proper authorization and verification.² On reconsideration, we affirm that Sprint's actions violated the Commission's carrier change rules.³

I. BACKGROUND

2. In December 1998, the Commission adopted rules prohibiting the practice of "slamming," the submission or execution of an unauthorized change in a subscriber's selection of a provider of telephone exchange service or telephone toll service.⁴ The rules were designed to take the profit out of slamming.⁵ The Commission applied the rules to all wireline carriers,⁶ and modified its existing requirements for the authorization and verification of preferred carrier changes.⁷

¹ See Petition for Reconsideration of Sprint Communications Co., LP. (filed Oct. 28, 2005) (*Petition*) seeking reconsideration of *Sprint Communications Company*, 20 FCC Rcd 15450 (2005) (*Division Order*), issued by the Consumer Policy Division (Division), Consumer & Governmental Affairs Bureau.

² See *Division Order*, 20 FCC Rcd 15450 (2005).

³ See 47 C.F.R. §§ 64.1100 – 64.1190.

⁴ See *id.*; see also 47 U.S.C. § 258(a).

⁵ See *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers*, CC Docket No. 94-129, Second Report and Order and Further Notice of Proposed Rulemaking, 14 FCC Rcd 1508, 1512, para. 4 (1998) (*Section 258 Order*). See also *id.* at 1518-19, para. 13.

⁶ See *id.* at 1560, para. 85. CMRS providers were exempted from the verification requirements. See *Section 258 Order* at 1560-61, para. 85.

⁷ See *Section 258 Order*, 14 FCC Rcd at 1549, para. 66.

3. The rules require that a submitting carrier receive individual subscriber consent before a carrier change may occur.⁸ Specifically, a carrier must: (1) obtain the subscriber's written or electronically signed authorization; (2) obtain confirmation from the subscriber via a toll-free number provided exclusively for the purpose of confirming orders electronically; or (3) utilize an independent third party to verify the subscriber's order.⁹

4. The Commission also adopted liability rules for carriers that engage in slamming.¹⁰ If the subscriber has not already paid charges to the unauthorized carrier, the subscriber is absolved of liability for charges imposed by the unauthorized carrier for service provided during the first 30 days after the unauthorized change.¹¹ Where the subscriber has paid charges to the unauthorized carrier, the unauthorized carrier must pay 150% of those charges to the authorized carrier, and the authorized carrier must refund or credit the subscriber 50% of all charges paid by the subscriber to the unauthorized carrier.¹²

5. The Commission received various complaints alleging that Complainants' telecommunications service providers had been changed from their authorized carriers to Sprint without Complainants' authorization.¹³ Pursuant to Sections 1.719 and 64.1150 of the Commission's rules,¹⁴ the Division notified Sprint of the complaints.¹⁵ In its responses, Sprint stated that authorizations were received and confirmed through letters of agency (LOAs).¹⁶ The Division determined that Sprint's LOAs were illegible and that Sprint was unable to provide clear copies. Therefore, the Division found that Sprint failed to produce clear and convincing evidence that the Complainants authorized carrier changes and, thus, that Sprint's actions resulted in unauthorized changes in Complainants' telecommunications service providers.¹⁷ Sprint seeks reconsideration of the *Division Order*.

⁸ See 47 C.F.R. § 64.1120. See also 47 U.S.C. § 258(a) (barring carriers from changing a customer's preferred local or long distance carrier without first complying with one of the Commission's verifier procedures).

⁹ See 47 C.F.R. § 64.1120(c). Section 64.1130 details the requirements for letter of agency form and content for written or electronically signed authorizations. 47 C.F.R. § 64.1130.

¹⁰ See 47 C.F.R. §§ 64.1140, 64.1160-70.

¹¹ See 47 C.F.R. §§ 64.1140, 64.1160 (any charges imposed by the unauthorized carrier on the subscriber for service provided after this 30-day period shall be paid by the subscriber to the authorized carrier at the rates the subscriber was paying to the authorized carrier at the time of the unauthorized change).

¹² See 47 C.F.R. §§ 64.1140, 64.1170.

¹³ See Appendix A.

¹⁴ 47 C.F.R. § 1.719 (Commission procedure for informal complaints filed pursuant to Section 258 of the Act); 47 C.F.R. § 64.1150 (procedures for resolution of unauthorized changes in preferred carrier).

¹⁵ See Appendix A.

¹⁶ See *id.*

¹⁷ See 47 C.F.R. § 64.1150(d).

II. DISCUSSION

6. Sprint states that the documents reviewed by the Commission were faxed, scanned, transmitted, and printed many times, resulting in some blurring of text.¹⁸ However, Sprint contends that all text was readily legible by enlarging the document.¹⁹ Further, Sprint states that it provided, at the Commission's request, a typed, verbatim reproduction of the text in dispute to the Commission on August 5, 2005.²⁰ Thus, Sprint contends that the LOAs it provided constituted valid authorization to switch Complainants' long distance service.

7. Based on the record before us, we affirm the *Division Order* and deny Sprint's *Petition*. The Commission's rules state that a LOA must be clearly legible.²¹ We find that Sprint did not submit legible LOAs. Even when magnified 200 percent, the illegible section of the LOAs originally submitted were not legible. In addition, the LOA submitted with Sprint's *Petition* "in its original, legal ... size" still contains the same illegible referenced portion.²² Simply put, the LOAs were not clear when Sprint initially submitted them with its original responses or with its *Petition*; thus, there was no error with the *Division Order's* findings. We also note that we were unable to determine whether the copy of the text supplied by Sprint included the same language as in the LOAs at issue here. The text at issue in Complaint Nos. IC 03-I0048333S and IC 04-I0129292S, for example, contained only two paragraphs in the LOAs as originally submitted whereas the copy of the text submitted by Sprint had three paragraphs. Consequently, we find no basis upon which to reverse the *Division Order*.

III. ORDERING CLAUSES

8. Accordingly, IT IS ORDERED that, pursuant to Section 258 of the Communications Act of 1934, as amended, 47 U.S.C. § 258, and Sections 0.141, 0.361, 1.106 and 1.719 of the Commission's rules, 47 C.F.R. §§ 0.141, 0.361, 1.106, 1.719, the *Petition for Reconsideration* filed by Sprint Communications Company, on October 31, 2005, IS DENIED.

9. IT IS FURTHER ORDERED that this Order is effective UPON RELEASE.

FEDERAL COMMUNICATIONS COMMISSION

Monica S. Desai, Chief
Consumer & Governmental Affairs Bureau

¹⁸ *Petition* at 1.

¹⁹ *Id.* Sprint has attached to its *Petition* a copy of the LOA associated with IC No. 03-I0048333S in what Sprint claims is the LOA's original, legal size (*i.e.*, 8.5" x 14" paper).

²⁰ *Id.* at 2. These paragraphs are titled "Rates and Conditions of Service" and "Important Customer Authorization, Please Read Carefully."

²¹ *See* 47 C.F.R. § 64.1130(e). In relevant part, this section provides: "At a minimum, the letter of agency must be printed with a type of sufficient size and readable type to be clearly legible and must contain clear and unambiguous language ..."

²² *See* n. 19, *supra*.

APPENDIX A

<u>INFORMAL COMPLAINT NUMBER</u>	<u>DATE OF COMPLAINT</u>	<u>DATE OF NOTICE OF COMPLAINT TO CARRIER FROM DIVISION</u>	<u>DATE OF CARRIER RESPONSE</u>
03-I0048333S	July 2, 2003	August 15, 2003	November 11, 2003
04-S86610	April 1, 2004	April 16, 2004	June 30, 2004
04-I0107399S	April 19, 2004	August 27, 2004	September 28, 2004
04-I0129292S	September 22, 2004	December 3, 2004	December 17, 2004